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In his Office Action, the Examiner has rejected claim 1-15 on the grounds of non-statutory obviousness-type double patenting over the following:

1. Claims 1-15 of US 2003 0170513.
2. Claims 1-7 of US 2003 0170512.
3. Claims 1-6 of US 2003 0170511.
4. Claims 1-6 of US 2003 0165723.
5. Claims 1-6 of US 2003 0165721.
6. Claims 1-6 of US 2003 0162061.
7. Claims 1-6 of US 6,896,706.
8. Claims 1-6 of US 6,736,867.
9. Claims 1-6 of US 6,730,138.
10. Claims 1-7 of US 2004 012121202A
11. Claims 1-18 of US 6,653,006.
12. Claims 1-14 of US 2001 00338934.

Applicants have enclosed a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) to overcome this rejection.

The Examiner has also rejected claims 1-15 under 35 U.S.C. 102(e) as being anticipated by US Patent 5,539,044 ("Dindi et al"). This rejection is respectfully traversed in part.

Applicants' amended claims one, eleven, and claim eight (all independent claims) contain the limitation that the water-in-oil-in-water emulsion is made by the process "comprising mixing at mixing energy in the range of 0.15×10^{-5} to 0.15×10^{-3} kW/liter of fluid." Applicants have discovered that the water-in-oil-in-water emulsion prepared in accordance with the specification and as now specified in the amended

claims produces a uniquely stable emulsion (see paragraph 0033 for example). Dindi et al. contains no such teaching in the preparation of their non-agglomerating suspensions (see, e.g. col. 8, lines 20-44, col 15, line 62, col. 17, line 54, and claims 1 and 12). Nor is the claimed feature inherent to the suspension taught by Dindi et al. For at least these reasons, the applicants invention as presently claimed is not anticipated by Dindi et al.

The Examiner has also rejected claims 1-15 under 35 USC 102(e) as anticipated by US Patent 6,653, 006 ("Berlowitz et al"). Berlowitz et al. in which two of the three inventors are the inventors in the present application, teach an oil-in-water, or water-in-oil, macro or micro emulsion. The patent does not teach the blending parameters contained in the amended claims that produce the water-in-oil-in-water emulsion of the present invention. For at least this reason, Berlowitz et al. does not anticipate the present invention as set forth in the amended claims.

In the Office Action, the Examiner has also rejected claims 1-15 under 35 USC § 102(e) as anticipated by US Patent application 2003/0138373, ("Graham et al") published July 24, 2003. This application was filed November 5, 2001. This rejection is respectfully traversed in part. The applicants submit the following remark without admitting that the subject reference is prior art to their invention.

Graham et al. teach a hydrocarbon/water water-in-oil or oil-in-water emulsion (see paragraph 0032). Graham et al. does not teach, nor inherently disclose the water-in-oil-in-water emulsion that is claimed herein. For at least this reason, Graham et al does not anticipate the invention as presently claimed.

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CONCLUSION

In view of the amendments and foregoing remarks, it is respectfully submitted that the Examiner's objection and rejections have been addressed and overcome, and that the pending claims now present in the application are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. No additional fees are believed to be required with this Amendment, however, if any other fee is required, or otherwise necessary to cover any deficiency in fees already paid, authorization is hereby given to charge Deposit Account Number 05-1330.

If there should be any questions in connection with this request, the undersigned may be contacted at the number below.

Respectfully submitted,

Date: 9 April 2007

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☒ Pursuant to 37 CFR 1.34(a)

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